

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

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5 UNITED STATES OF AMERICA, Case Number 1:15-cr-118
6 Plaintiff, .
7 - v - .
8 CODY LEE JACKSON, Wednesday, February 28, 2018
9 Defendant. 2:30 p.m.
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10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HONORABLE MICHAEL R. BARRETT

12 For the Plaintiff:

13 CHRISTY L. MUNCY, ESQ. (AUSA)
14 United States Attorney's Office
15 221 East Fourth Street, Suite 400
16 Cincinnati, Ohio 45202

17 For the Defendant:

18 CANDACE C. CROUSE, ESQ.
19 Pinales Stachler Young Burrell & Crouse
20 455 Delta Avenue, Suite 105
21 Cincinnati, Ohio 45226

22 STEPHEN J. WENKE, ESQ.
23 36 East Seventh Street, Suite 2020
24 Cincinnati, Ohio 45253

25 Also Present: F.B.I. Special Agent Pamela S. Kirschner
26 Officer Beth Roach, Blue Ash Police Dept.
27 Laura Jensen, U.S. Probation Officer

28 Courtroom Deputy: Barbara A. Crum

29 Court Reporter: Maryann T. Maffia, RDR

PROCEEDINGS

2 COURTROOM DEPUTY: On the docket is District Court
3 Case Number 1:15-cr-118: *United States of America versus Cody*
4 *Lee Jackson.*

5 And we are here for sentencing.

6 THE COURT: Counsel want to enter their appearances
7 for the record, please.

8 MS. MUNCY: Good afternoon, Your Honor. Christy
9 Muncy on behalf of the United States. Also seated at counsel
10 table is Special Agent Pamela Kirschner with the F.B.I. and
11 Detective Beth Roach with the Blue Ash Police Department.

12 MS. CROUSE: Good afternoon, Your Honor. Candace
13 Crouse on behalf of Cody Jackson.

14 MR. WENKE: Steve Wenke for Mr. Jackson.

15 THE COURT: Okay. So let's just review how we got to
16 where we are and then get on with the proceedings.

17 So Cody, you were in front of me on May 5th of last year,
18 2017. You entered a plea of guilty to Coercion and
19 Enticement, violations of 18 U.S.C. 2422. It was the first
20 count of the Indictment.

21 The PSI was originally prepared on August 25th of last
22 year later, later revised December 21st of last year as well.

At the time we handled the plea and I accepted the plea
and made a finding of guilty, I told you I would review the
PSI to see if I agreed with the 11(c)(1)(C) recommendation and

1 the recommendation --

2 Correct me, counsel, if I'm wrong. The recommendation was
3 a range from 120 to 180 months concurrent with state time. Is
4 that correct?

5 MS. MUNCY: That's correct, Your Honor.

6 THE COURT: Okay. The recommendation is fine with
7 me, so we're ready to proceed with the sentencing. Fair
8 enough?

9 MS. MUNCY: Yes, sir.

10 THE COURT: Okay. All right. I've received a copy
11 of the memorandum that was filed by Candace and Steve, as well
12 as the one filed by Christy.

13 So counsel, have you guys received a copy of everything
14 and discussed it with Cody?

15 MS. CROUSE: Yes, Your Honor.

16 THE COURT: Christy, have you received a copy of
17 everything and discussed it with anybody that you had to?

18 MS. MUNCY: Yes, Your Honor.

19 THE COURT: All right. Let's go over the offense
20 level calculation just for the record.

21 So the Base Offense Level for a violation of 18 U.S.C.
22 2422(b) is at Guideline 2G1.3 and the subsection thereafter,
23 and the Base Offense Level for this is a 28.

24 Since there was use of an electronic media or computer in
25 this situation, there is a two-level enhancement.

1 Because there was also the commission of sexual contact or
2 sexual act, there is an additional two-level enhancement.

3 So the Base Offense Level is then figured to a 32.

4 Since the offense involved a minor who was between the
5 ages of 12 and 16, there is a two-level enhancement.

6 Because of the commission of the actual sexual act itself,
7 there is an additional two-level enhancement.

8 And if for the purpose of producing sexually explicit
9 material or transmitting the material, the offense again
10 involved the use of a computer. In this situation, there was
11 Facebook that was used as part of the enticement elements of
12 the offense, so there is another two-level enhancement.

13 There is also enhancement because it's alleged that Cody
14 attempted to prevent testimony from the victim.

15 So the Adjusted Offense Level is a 40.

16 There is a five-level enhancement under Chapter Four,
17 4B1.5(b) in which the defendant's offense is a covered sex
18 crime. Then there is a five-level enhancement. The instant
19 offense is a covered sex crime because it was perpetrated
20 against a minor, Chapter 117 of Title 18 of the Code.

21 Cody also engaged in prohibited sexual contact with a
22 minor on at least two separate occasions, so he got a
23 five-level enhancement for that.

24 Then for acceptance of responsibility and timely
25 notification, the Adjusted Total Level Offense level is 42.

1 His Criminal History is a III.

2 A guideline calculated sentence absent the 11(c)1(C)
3 agreement his lawyers reached with the United States would
4 have been a guideline sentence of anywhere from 360 months to
5 life.

6 I've already indicated I would accept the 11(c)1(C)
7 sentencing range.

8 For the record, the recommended sentence by the Probation
9 Department is 165 months.

10 Are there any facts in the PSI that are disputed, Candace
11 or Steve?

12 MS. CROUSE: No, Your Honor.

13 THE COURT: Same question to you, Christy.

14 MS. MUNCY: No, Your Honor.

15 THE COURT: Any facts that Candace or Steve feel need
16 to be included in the PSI?

17 MS. CROUSE: No, Your Honor.

18 THE COURT: Same question to you, Christy.

19 MS. MUNCY: No, Your Honor.

20 THE COURT: Are there any objections that need to be
21 addressed at this time before we actually move into my
22 findings of fact and the sentencing phase?

23 MS. CROUSE: None from the defendant.

24 MS. MUNCY: No objections, Your Honor.

25 THE COURT: Okay. That being the case, the Court

1 finds that Cody has entered a valid plea to Count 1 of the
2 Indictment in Case Number 1:15-cr-118, Coercion and
3 Enticement, a Class A felony. It's a violation of 18 U.S.C.
4 2422.

5 As I explained at the time of the plea, he was subjected
6 to a mandatory minimum of ten and a possible sentence of up to
7 life.

8 We've already talked about what the calculation would have
9 resulted in, that is 360 to life; a possible \$250,000 fine;
10 supervised release of at least five years, possibly for the
11 remainder of his life; and there is a 100-dollar special
12 assessment.

13 Before we proceed to the sentencing phase, are there any
14 objections or facts that need to be explained at this time?

15 MS. CROUSE: No, Your Honor.

16 MS. MUNCY: No, Your Honor.

17 THE COURT: Okay. That being the case, Candace and
18 Steve, is there anything that either of you wish to say in
19 anticipation and/or mitigation of a possible sentence for
20 Cody? And if there is anything Cody needs to say, his chance
21 would be after you guys have spoken. Fair enough?

22 MS. CROUSE: Your Honor, before we begin, I believe
23 that Cody's father would like to address the Court, and then
24 we'll proceed with our arguments in mitigation.

25 THE COURT: Okay. Has he been cautioned not to use

1 the name of any minors?

2 MR. WENKE: Yes.

3 THE COURT: All right. Is he here?

4 MS. CROUSE: Yes.

5 THE COURT: Where is he?

6 Sir, I understand you want to say a few things for the
7 record, which means -- when we say "for the record," that
8 means our court reporter is taking it down, so you have to
9 speak slowly enough so that she can understand what you're
10 saying. But if you could begin by stating your name and
11 spelling your last name so she can take it down, that would be
12 great.

13 MR. ARGIL JACKSON: Yes. My name is Argil Jackson,
14 A-r-g-i-l. Last name is Jackson, J-a-c-k-s-o-n.

15 THE COURT: Okay. Thank you. Go ahead.

16 MR. ARGIL JACKSON: I'm Cody's father. I know my son
17 is going to prison for a long time, at least ten years. He
18 pled guilty. I want you to know that I am 73 years old and
19 recovering from lung cancer. I was 50 when he was born. He
20 lived with his mother. I tried everything I could to protect
21 him, but I know he was abused a lot when he was there. She
22 lived with a registered sex offender, among other things, and
23 he went through extreme emotional and physical abuse when he
24 was there.

25 This is not an excuse for anything he has done, but I know

1 he needs treatment and help for the -- because he suffered.

2 He was in foster care, over my objection. Again, he got
3 abused instead of getting help.

4 I know my son needs help. I know he can get it and be a
5 person he was before he started having all these problems. He
6 is now 22. He just turned 19 when this happened. He was
7 still immature. He can say mean things, but he's not a
8 monster. He was wrong to contact her, and there is no excuse
9 for it, but please don't punish him for that. He was let down
10 for a long time. He was in solitary confinement where he
11 could only get out one hour a day. That's punishment already.
12 I know he will not -- he will get more punishment, but please
13 send him to a place where he can get help. I know jails are
14 bad places, but he has been treated like an animal and
15 threatened while he was there.

16 Judge, I ask you to give him ten years and let him get
17 treatment while he's in prison. I know I may not be alive
18 when he is released, but he will be under court control when
19 he does. He is a person that is capable of getting better. I
20 love him and I know who he really is. He is not the -- he is
21 not the act he puts on. He is terrified and tries to act
22 tough, but he's really a child. Thank you.

23 THE COURT: Thank you, sir.

24 Candace.

25 MS. CROUSE: Thank you, Judge. Judge, I know that

1 you've read our Sentencing Memorandum, and I don't want to
2 reiterate everything that's in it but I do want to just point
3 out a few things for the record.

4 You know, Cody was 19 when this occurred. I know from
5 speaking to Cody and from speaking to the victim in this case
6 that there was a level of a caring relationship there. You
7 know, Cody now has spent over two years -- I think two years
8 and four months now he's been in pretrial detention, and
9 probably about a year of that, and this is as a result of some
10 of his own actions and we know this, but he's been on lockdown
11 23 hours a day without the ability really to have much human
12 contact. I think that's part of his reaching out and doing
13 some things that violated the Court order, which I know that
14 he's apologized for.

15 This case really has blown up and in a large part due to
16 some of the things that the victim said. I think she was
17 really brave for reaching out to me. She called me. We did
18 talk. You know, everything that Cody has pled guilty to is
19 true, and Cody has accepted responsibility for all of that,
20 but there were other things that were said that were not quite
21 true. She has set the record straight, at least with me in
22 person, about that and I think it was very brave of her to do
23 so.

24 I do appreciate some of the things that she said to the
25 probation officer when she was interviewed, that Cody is not a

1 monster, that they did have some good times. I know that she
2 still cares about him. They have a child together. This is
3 just an unfortunate situation.

4 You know, a lot of Cody's behavior can be explained by his
5 difficult childhood, and I really commend the probation
6 officer for laying that out. I saw Laura walking in here with
7 records like this thick, very thick, Judge, from Cody's
8 background. His foster care history, his juvenile history,
9 Laura meticulously went through those and I think did a
10 wonderful summary in the PSR about what happened to Cody as a
11 child, and it's not pretty.

12 We look at the diagnosis, the psychological diagnosis that
13 they had for him back then, and the treatment that they
14 recommended that he never got. And then we had our
15 psychologist examine Cody on two occasions. He came to a very
16 similar conclusion, and it's been a general consensus across
17 the board that Cody needs very specialized psychological
18 treatment.

19 He's not going to get that in the Bureau of Prisons. I
20 think there is a level of psychological treatment that he will
21 get there, but it's not going to be what he needs.

22 And so when we're looking at punishment, there is a
23 punishment element -- with a sentence, there is a punishment
24 element and there is a rehabilitation element, and I think we
25 need to think about when Cody is finally released, because he

1 will get released.

2 Now, granted, he is going to be on lifetime supervision.
3 That's part of the Plea Agreement, and that's a heavy, heavy
4 penalty as well, to be reporting on supervised release for
5 life. But the Court is going to have some control over him in
6 that regard with regard to psychological counseling and
7 treatment, which is something that he wants.

8 Even Dr. Wygant said that Cody is aware, which is unusual
9 for his type of diagnosis, but he is aware that he has an
10 issue and that he needs treatment, and he wants treatment.

11 And so when we're looking at a sufficient but not greater
12 than necessary sentence in this case, we believe that the
13 ten-year mandatory minimum is sufficient but not greater than
14 necessary. When he gets out, he will then be placed on
15 lifetime supervision, and this Court will be able to order
16 that he get the treatment that he needs.

17 Dr. Wygant has already spoken to Cody's dad, and he's
18 reached out to treatment providers in Wisconsin. There is a
19 certain type of provider that is necessary to be able to give
20 Cody the treatment that he needs, and Dr. Wygant has already
21 looked into that. So he'll be able to advise on where Cody
22 needs to seek treatment

23 So we would just ask the Court to consider all those
24 issues, his youth, his background, and the fact that this is
25 not just about punishment, this is also about rehabilitating a

1 young guy, a young kid, and we would ask that you consider the
2 ten-year mandatory minimum.

3 THE COURT: Steve or Cody, anything you want to say?

4 MR. WENKE: I would just add to what Candace already
5 said and just that, in my experience with him, I believe he's
6 a deeply wounded person. I believe at this point he's broken,
7 just seeing his reaction with his dad in here today. I think
8 he's in a place where he will be receptive to treatment, and I
9 would just reiterate what she's already said.

10 THE COURT: Okay. How about Cody, is he going to say
11 anything?

12 MR. WENKE: I think he might.

13 THE DEFENDANT: Your Honor, I understand what I did
14 was wrong, and I do regret that, and I do apologize to the
15 Court and to her and her family for my actions. But also, I
16 do, I do care about her a good amount. We have a son together
17 who I'd really like to be able to be a father to. I had a
18 pretty, like Candace said, difficult childhood. That has
19 always affected me, I believe, to some point.

20 THE COURT: No. If you read paragraph 72 through
21 about 87, I mean, it tugs at the heartstrings of any reader,
22 Cody. I mean, what you went through, what you saw, what you
23 felt, your experiences are not appropriate. Sadly, it's not
24 unusual in presentence investigations to read a kid's history
25 like this, so I've never -- I empathize with what you went

1 through, and I think it kind of explains how we got here to a
2 certain extent. It's pretty sad and shocking stuff what
3 happened to you. I get it.

4 THE DEFENDANT: And one of the big things that -- I
5 mean, I have three children, one daughter and two boys, and I
6 don't want them to go through what I went through. Me and the
7 victim's son, our son, is currently in foster care because of
8 the living situation that she was in and because of some of
9 the things that happened to her that weren't necessarily her
10 fault.

11 And when I reached out to her, that was one of the things
12 that I wanted to try to figure out, how I would be able to
13 help to prevent my son from going through the same things that
14 I went through when I was young. And that's, that's a big
15 reason why I contacted her, and I guess the other part was
16 because I miss her. You know, I mean, we have a son. There
17 is always going to be an emotional connection, at least for
18 me, between me and her. I just want to, any way that I could,
19 just try to be a good father.

20 THE COURT: Okay. I mean, oftentimes we see a cycle
21 that repeats itself and repeats itself. When you read a
22 report like this, you can't help but sit here and wonder what
23 the kid is going to end up, what he's going to be like in ten
24 years. It's a tough situation all the way around, not just
25 for you but also for the victim. Anything else you think I

1 need to know at this time?

2 THE DEFENDANT: I just really want to apologize and
3 ask you to consider the ten years so I can come home and get
4 the help that I need.

5 THE COURT: Okay.

6 Anything else, guys?

7 MS. CROUSE: No. Thank you, Your Honor.

8 THE COURT: Christy?

9 MS. MUNCY: Your Honor, I'll just be real blunt. I
10 don't believe anything he just said. I don't believe he's
11 sorry for his actions. I believe he's sorry he got caught.
12 And the reason I say that is because of several things.

13 One is the conduct that he engaged in, attempting to
14 manipulate the victim which led to the indictment of tampering
15 with a witness. Then after a lengthy period of time goes on
16 and we negotiate a plea, which, quite frankly, is incredibly
17 beneficial to him and speaks to the efforts made on his behalf
18 by his counsel, he continues to do that.

19 So when he says I reached out to her to try to find out
20 about my son and to make sure he's growing up okay, if that
21 child grows up okay it will be because of nothing to do with
22 Mr. Jackson and everything to do with the efforts that his
23 very young and still-juvenile mother will do.

24 So when somebody stands up here and says it's his youth
25 and he's broken and he's wounded -- what is this, the 28th of

1 February? And in January of this year, through search
2 warrants that we had to obtain because of how he is trying to
3 contact the victim and use his father in an attempt to extort
4 her, he writes to his father: And I swear to God, if you do,
5 I'll put you in the hospital on life support. I will make
6 your life a real living hell.

7 That's who Mr. Jackson is, not the I'm sorry for what I
8 did. It's very much I'm sorry I got caught.

9 He was in isolation because of that conduct. It wasn't
10 because of some of his own actions, it was entirely because of
11 his actions that he was put in isolation. And even when phone
12 restrictions were put on him after he most recently tried to
13 contact the victim, he is still using other inmates to try to
14 make contact.

15 It makes no sense to me. It is beyond cavalier behavior.

16 That being said, his youth has worked in his favor in this
17 case because I know we can't put him in jail for the rest of
18 his life. That, quite frankly, is the only way I think that
19 we can guaranty that Mr. Jackson would not commit a crime
20 again, but we can't. But he has earned every day of a 15-year
21 sentence. And supervision is not a punishment for
22 Mr. Jackson, it is protection to the community, and he
23 likewise has earned a lifetime of that.

24 With that said, Your Honor, I'm not going to repeat the
25 Sentencing Memorandum and the 3553(a) factors that are

1 outlined in there which I have briefly addressed, but I
2 believe that he has earned the top end of the sentence and
3 should be sentenced accordingly.

4 THE COURT: Anything else, guys?

5 MS. CROUSE: No, Your Honor.

6 THE COURT: Okay. As the lawyers know and as I think
7 I previously informed Cody, it's my obligation to impose a
8 sentence which is sufficient but not greater than necessary to
9 comply with the purposes set forth in 18 U.S.C. 3553.

10 I've already indicated that I think the sentence within
11 the range of 120 to 180 months does accomplish that task.

12 So I have to look at the nature and circumstances of this
13 offense, history, characteristics, and the potential for
14 deterrence, not just for Cody but for perhaps other people
15 that are similarly situated and maybe considering this type of
16 conduct.

17 So based upon everything that's in front of me, I believe
18 the appropriate term of incarceration is the sentence that was
19 recommended by the Probation Department, which would be 165
20 months in the Bureau of Prisons, to be served concurrently
21 with whatever --

22 As I understand it, the state sentence has not been
23 imposed yet but it's been negotiated; is that correct?

24 MS. CROUSE: That's correct, Your Honor.

25 THE COURT: Okay. Also credit for time served as he

1 awaited disposition in this case.

2 As agreed upon in the 11(c)1(C) recommendation, the term
3 of supervised release will be for a period of life, which
4 means within 72 hours after Cody's release from the
5 institution in which he's housed he'll report to the Probation
6 Office in the district within which he is released or intends
7 to reside, and he will give them all the information as
8 required.

9 When he's on supervised release, he's not to commit any
10 other federal, state or local crimes.

11 He is now a prohibited person, which means he is not
12 allowed to own, use or possess a firearm, destructive device,
13 ammunition or any type of dangerous weapon.

14 He is not allowed to unlawfully possess a controlled
15 substance, and he will submit to at least one drug test within
16 15 days after his release from the institution, and at least
17 two tests thereafter, and he'll provide the Probation
18 Department with a DNA sample as he is directed.

19 He also is going to have to comply with the requirements
20 of the Sex Offender Registration Act, which is known as SORNA,
21 as directed by the probation officer, the Bureau of Prisons,
22 as well as any state offender registration agency in which he
23 ends up residing, working or being a student.

24 He must comply with all the standard terms and conditions
25 of supervised release which have been adopted by this Court,

1 as well as the special conditions to make sure this
2 registration is kept current in each jurisdiction where he
3 resides. That's not just a requirement of the jurisdiction
4 but also a requirement of supervised release.

5 If the supervision transfers to another federal district,
6 the obligation to register as required by SORNA will accompany
7 him into that jurisdiction and be governed by the district's
8 policy and the laws of that state.

9 He's not allowed to own, use, possess or view any sexually
10 explicit material as that term is defined in 18 U.S.C.
11 2256(2)(A) and (B).

12 He will participate in the sex offender treatment program
13 including risk assessment, psychosexual evaluation, or other
14 evaluations as determined appropriate by the Probation
15 Department. He'll follow any rules and regulations of any
16 such treatment program that gets implemented by the Probation
17 Department, which will include signing all necessary
18 authorization forms to release confidential information which
19 would include polygraph examinations, computer access,
20 et cetera.

21 At the direction of the supervising officer, he will have
22 to take periodic polygraph examinations. Those will occur at
23 his expense.

24 Because of the registration requirements in terms of
25 supervised release, he has to have his residence and

1 employment pre-approved by the probation officer and must be
2 in compliance with any state and local laws.

3 He's not to have contact with any minor children, will not
4 be permitted even with supervision unless approved by the
5 Court. A term of contact extends to forms of communication
6 such as mail, other forms of electronic communication. We're
7 obviously not talking about people under the age of 18 that
8 have jobs such as ticket holders, ticket vendors, cashiers,
9 waiters and things like that

10 However, he is prohibited from loitering where minors
11 congregate, areas such as playgrounds, arcades, amusement
12 parks, sporting events, shopping malls, et cetera.

13 As directed by the Probation Department, he'll agree to
14 and will be required to install any software that the
15 Probation Department uses to monitor computer activities, and
16 that will also occur at his own expense. This software that's
17 installed at that point in time may have the ability to record
18 all activity on his computer, including the capturing of
19 keystrokes and applicable information, e-mail and chat
20 history, et cetera, et cetera. He acknowledges there is no
21 expectation of privacy regarding computer usage or
22 information stored on the computer that he is using.

23 He has an obligation to warn others of the existence of
24 the software program if they are attempting to contact him,
25 and he is not allowed to remove, tamper with, alter or

1 circumvent in any way the software program. If there's any
2 specific rules in the monitoring program, he has to comply
3 with those.

4 He has to surrender on request any media device to which
5 he has access to or control so that it can be searched by the
6 Probation Department based on reasonable suspicion or
7 contraband or evidence of a violation of a condition of
8 supervision.

9 This is not a situation where a fine is appropriate, but
10 there is a 100-dollar special assessment. Since it's one
11 count, \$100. There was the possibility for an additional
12 \$5,000-special assessment, but that's not going to be awarded
13 in this case.

14 So Barb?

15 COURTROOM DEPUTY: There is a forfeiture.

16 MS. MUNCY: Correct, Your Honor. There was, I think,
17 a phone seized from Mr. Jackson. If it's not in the
18 preliminary, we will get --

19 COURTROOM DEPUTY: There has been one already issued.
20 It's Document 51.

21 THE COURT: I can't recall. Was that itemized in the
22 Plea Agreement then?

23 MS. MUNCY: It was not in the Plea Agreement, Your
24 Honor. He's already forfeited all property that was seized,
25 so we decided to do that in a preliminary order.

1 THE COURT: All right. So we will order that
2 forfeiture to be implemented to the extent it hasn't already
3 been done.

4 Anything else, then, Barb?

5 COURTROOM DEPUTY: No.

6 THE COURT: Laura, anything else?

7 OFFICER JENSEN: Is the Court intending the no
8 contact with the victim to continue?

9 THE COURT: Oh, definitely, yeah. Well, yeah. I
10 mean, he's going to be in the custody of the Bureau of Prisons
11 for a period of time. We can revisit --

12 Well, let me ask you. Can I --

13 MS. MUNCY: By the terms of the Plea Agreement, he is
14 not permitted to have contact with her until she becomes an
15 adult, which she is not.

16 THE COURT: Okay, Until she's an adult. I mean, I
17 can't interfere with institution visiting rules and things
18 like that.

19 MS. MUNCY: That's a BOP issue. They would be
20 notified of that as well.

21 THE COURT: And I'm expecting that at the time of his
22 release there will be some type of assessment as to whatever
23 relationship there may be at that time, which includes a minor
24 child, so we'll have to talk about that down the road.

25 Is that all right?

1 OFFICER JENSEN: Yes.

2 THE COURT: Okay. No contact with the victim while
3 she remains a minor.

4 Yes?

5 COURTROOM DEPUTY: There was one other thing. I
6 don't know if there was in the PSI still a recommendation for
7 a BOP facility?

8 MS. CROUSE: I was going to raise that. Judge, Cody
9 had asked if you would recommend either FCI Butner or FCI
10 Petersburg, if he qualifies.

11 THE COURT: You want us to put it in either/or, or
12 how do you want to do that?

13 MS. CROUSE: Butner is his first choice, and
14 Petersburg would be a second choice, if he qualifies. They
15 both have sex offender programs.

16 THE COURT: Okay. That's fine.

17 I think the sentence is fair and reasonable under the
18 sentencing factors in 18 U.S.C. 3553, the materials contained
19 in the report, and Cody's actions in this case.

20 However, if there are any objections that need to be
21 placed on the record before I advise him of his notice of
22 appeal, do you guys want to do that?

23 MS. CROUSE: No objections, Judge.

24 THE COURT: Cody, as you sit here today, if you wish
25 to appeal the sentence and you indicate on the record that you

1 do, then Miss Crum, who is the courtroom deputy, will start
2 the paperwork process with the Sixth Circuit Court of
3 Appeals. They would appoint somebody to represent you in that
4 regard and undertake that appeal.

5 If you're not sure as you sit here today what your choice
6 is, you've got 14 days to have a conversation with Candace and
7 Steve to decide how you wish to proceed in that regard.

8 So from that table, are there any thoughts about today?

9 MS. CROUSE: Well, Your Honor, there is an appeal
10 waiver in the Plea Agreement.

11 THE COURT: There are certain rights that can never
12 be --

13 MS. CROUSE: Right. If Cody wants to appeal, we will
14 be sure to perfect that appeal timely.

15 THE COURT: Okay. So will you make sure you have
16 contact with him at some point within 14 days to protect his
17 interests in that regard if he wishes to appeal the sentence?

18 MS. CROUSE: Yes, Your Honor.

19 THE COURT: All right. I think I said credit for
20 time served, right?

21 COURTROOM DEPUTY: You did.

22 THE COURT: And then you guys are going to handle --
23 somebody is going to handle how the state court, all that
24 stuff occurs, right?

25 MS. CROUSE: Yes. You talked to --

1 MR. WENKE: I've notified him. I've not spoken with
2 him.

3 MS. CROUSE: It's our understanding that the lawyer
4 that is working on the state court case has already been in
5 touch with the state prosecutors and is going to be handling
6 --

7 THE DEFENDANT: Supposed to be in March.

8 MS. CROUSE: End of March. I think one of the
9 prosecutors is in trial right now.

10 THE COURT: Okay. That sentence will be imposed
11 concurrently, correct?

12 MS. CROUSE: Correct.

13 THE COURT: Anything else then, guys?

14 MS. CROUSE: No, Your Honor.

15 THE COURT: All right. That's the order of the
16 Court. Thank you.

17 MS. MUNCY: Thank you, Your Honor.

18 COURTROOM DEPUTY: Court is now adjourned.

19 (The proceedings concluded at 3:35 p.m.)

20

21 C E R T I F I C A T E

22 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
23 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

24 /s/Maryann T. Maffia March 27, 2023

25 Maryann T. Maffia, RDR
Official Court Reporter